

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
SUBDIVISION REPORT # FPP-12-02
ROSEWATER SUBDIVISION
JANUARY 30, 2013

A report to the Flathead County Board of Commissioners regarding a request for preliminary plat approval of Rosewater Subdivision, a 58 lot major subdivision that would create 46 single residential family lots and 12 residential townhouse lots. Located between Kalispell and Whitefish, the subdivision is on the north side of Rose Crossing 1/4 mile east of Whitefish Stage Road.

The Planning Board will hold a public hearing in the Earl Bennett Building conference room at 1035 First Avenue West, Kalispell on February 13, 2013 to review the proposal and make a recommendation to the Flathead County Commission. Final action on this proposal by the governing body must be taken prior to the review deadline of April 15, 2013. Documents pertaining to this application are available for public inspection at the Flathead County Planning and Zoning Office, located in the Earl Bennett Building at 1035 First Avenue West, Kalispell, Montana.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee/Council

The proposal is not located within the advisory area of a Land Use Advisory Council.

B. Planning Board

The Flathead County Planning Board will hold a public hearing on the proposed subdivision on February 13, 2013 and make a recommendation to the Flathead County Board of Commissioners. This space is reserved for a summary of the Planning Board's discussion and recommendation.

C. Commission

The Flathead County Board of Commissioners will review this proposal after the public hearing conducted by the Planning Board and prior to April 15, 2013 which is the end of the 80 working day statutory review period. This space will contain an update regarding the Flathead County Commission review of the proposal.

II. GENERAL INFORMATION

A. Project Personnel

i. Applicant/Owner

Score Management, LLC - Attn: Bill Tanner
688 Echo Lake Road
Bigfork, MT 59911

ii. Technical Assistance

Sands Surveying, Inc.
2 Village Loop
Kalispell, MT 59901

Carver Engineering, Inc.
1995 3rd Avenue East
Kalispell, MT 59901

B. Project Description

The request is for preliminary plat approval of Rosewater Subdivision, a proposal which would create fifty-eight residential lots (46 single-family lots and 12 attached townhouse lots) and a mini-storage facility from the 154.023 acre subject property within a SAG-5 residential planned unit development (PUD). Planned to be developed in two phases, all lots would be served by 5 new onsite multi-user wastewater treatment systems and the public water services of Evergreen Water and Sewer District. Access to all lots would be from a new internal subdivision road which would be a loop road approaching onto Rose Crossing. The development includes a proposed 27 acre artificial lake which would be constructed with a specially designed 30-milimeter liner overlain by 18-inches of soil material and intended to be filled from water drawn from the Whitefish River via an existing pump-station with a currently established irrigation water right.

Phasing plan

- Phase 1 would include: partial development of the proposed Rosewater Lane which would terminate at temporary cul-de-sacs in order to plat Lots 1-9, 30-37, and 45-48; Water system extension into the subdivision with services and hydrants; Three wastewater treatment systems would be constructed; Utilities and drainage; The lake will be constructed, and; Common Areas A, E, F, and G would be dedicated.
- Phase 1 is preferred by developer to be completed by Fall 2013 but may occur three years from preliminary plat approval or longer if the developer requests extensions.
- Phase 2 would include completion of the proposed Rosewater Lane in order to plat Lots 10-29 and 38-44; Complete water main extensions and remaining two wastewater treatment systems; Utilities and drainage, and; Remaining Common Areas B, C, D, H and I would be dedicated.
- Phase 2 hoped to be completed by fall of 2016, but may be longer depending upon date of Phase 1 final plat and if the developer requests extensions.
- Specific park features and mini-storage would occur in either phase.

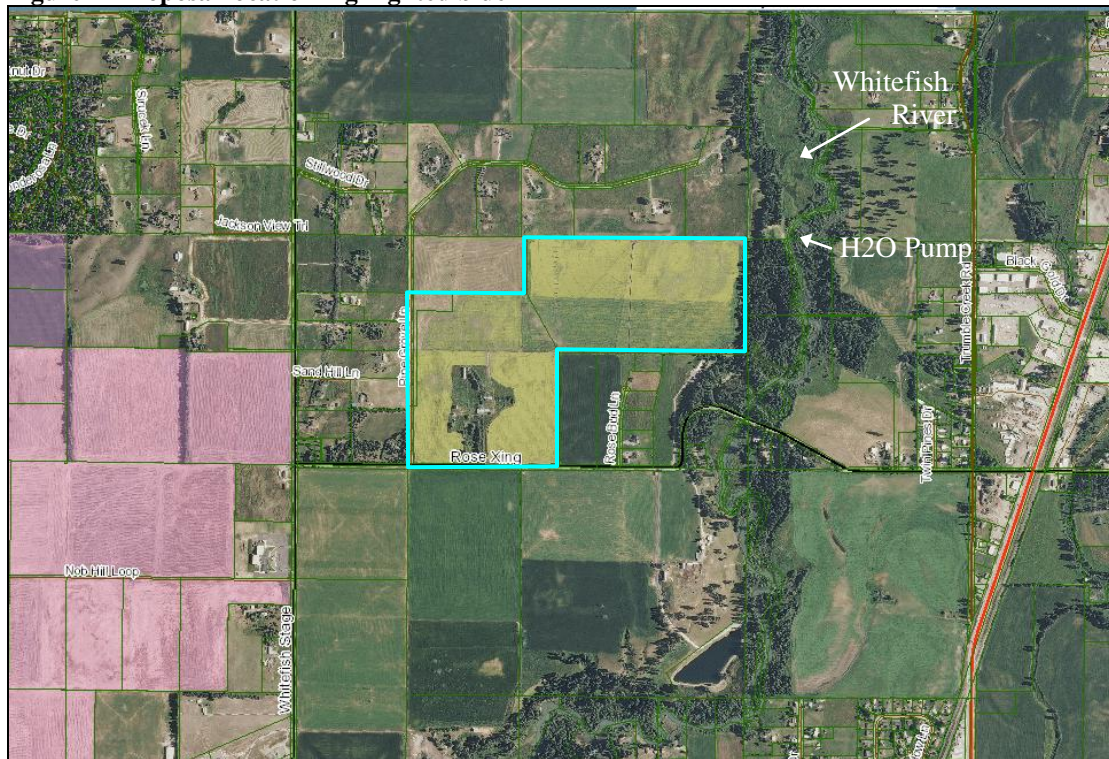
C. Legal Description of Subject Property

Proposed Rosewater Subdivision is comprised of three tracts of land that can be legally described as Assessor's Tracts 1, 1A, and 9A located in Section 20 Township 29 North, Range 21 West, P.M.M., Flathead County, Montana.

D. Detailed Location

Located at 1535 Rose Crossing, the proposed PUD is situated between the cities of Kalispell and Whitefish, on the north side of Rose Crossing 1/4 mile east of Whitefish Stage Road (refer to Figure 1).

Figure 1- Proposal location highlighted blue



E. Subdivision Layout Detail

i. Total Subdivision Acreage:	154.02 acres
ii. Acreage in Lots:	46.82 acres
iii. Acreage in Roads:	15.94 acres
iv. Total Park/Common Area/Open Space Acreage (lake and common areas)	91.24 acres
v. Minimum Lot Size	(single family) 0.72 acres, (townhouse) 0.17 acres
vi. Maximum Lot Size	(single family) 1.79 acres, (townhouse) 0.23 acres
vii. Overall Gross Lot Density:	1 dwelling unit per 2.65 acres
viii. Easements	

The preliminary plat indicates:

- Existing 60-foot public road and utility easement containing Rose Crossing
- Existing 60-foot private road and utility easement containing Pine Grove Lane
- Existing 10-foot water line easement from pump-house on Whitefish River
- Existing 10-foot utility easement for irrigation line to be removed when platted
- Proposed 60-foot wide private road and utility easement for proposed Rosewater Lane;
- Proposed 20-foot pond maintenance easement around entire perimeter of the proposed lake, and;
- A proposed 10-foot bicycle/pedestrian easement adjacent to Rose Crossing.

ix. Common Areas

The preliminary plat indicates proposed Common Areas A-I with the following attributes:

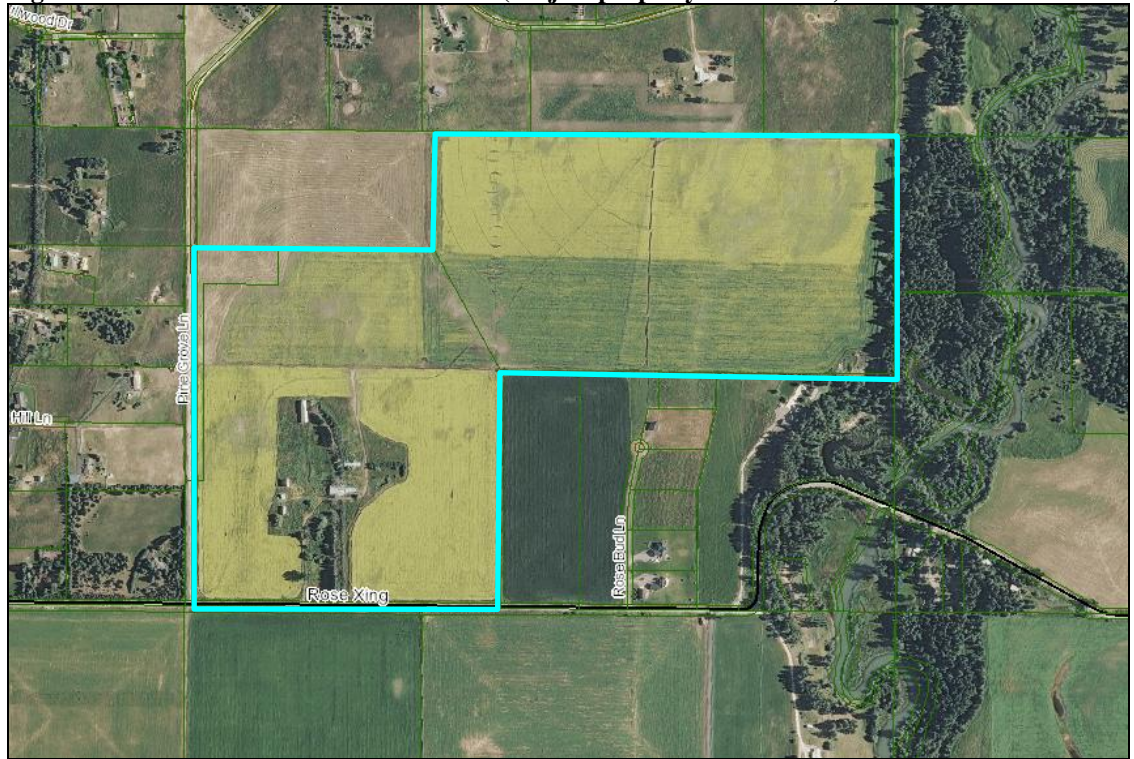
- Common Area A (3.99 acres) is a lakefront common area containing a boat ramp facility with a 26 space parking lot, tennis and volleyball courts, and a pavilion area. The applicant has expressed Common Area A may also have a ‘clubhouse’.
- Common Area B (0.48 acres) provides common lake access to the north side of the lake and also contains a temporary cul-de-sac for Rosewater Lane.
- Common Area C (1.13 acres) provides limited parking and common lake access to the east side of the lake and eastern island bridge.
- Common Area D (0.63 acres) provides common lake access to the south side of the lake.
- Common Area E (3.55 acres) encompasses the island between the north and south sides of the lake, connected at each end with utility bridges
- Common Area F (6.78 acres) is located in the southwest corner of the subdivision abutting the entrance facility, surrounding the three groups of townhouse lots (Lots 47-50, Lots 51-54, and Lots 55-58), and abutting adjacent Pine Grove Lane. Common Area F would contain proposed gravity effluent sewer lines from the townhouse lots and wastewater treatment system B, and serve to preserve an open space buffer to area roads and residences.
- Common Area G (6.10 acres) is located along the northern boundary of the subdivision, would contain proposed force main sewer lines, wastewater treatment system E, a portion of the proposed 10-inch lake fill waterline, and serves to preserve an open space buffer to area residences.
- Common Area H (25.14 acres) encompasses the eastern area of the subdivision, would contain proposed force main sewer lines, wastewater treatment system D, existing irrigation line which will constitute a portion of the proposed 10-inch lake fill waterline, and serves to preserve an open space buffer between sensitive slopes of the Whitefish River.
- Common Area I (16.40 acres) is located in the southeast corner of the subdivision and abutting the entrance facility. Containing proposed force main sewer lines and wastewater treatment systems A and C, Common Area I would also accommodate a proposed 50-unit storage and maintenance facility, and serve to preserve an open space buffer to area roads and residences.
- A recreational pathway would be situated upon the Common Areas as shown.

F. Administrative Characteristics

i. Current Land Use

The subject property is comprised of open fields which have been used for agricultural purposes and there is a central area developed with a barn and several agricultural related buildings.

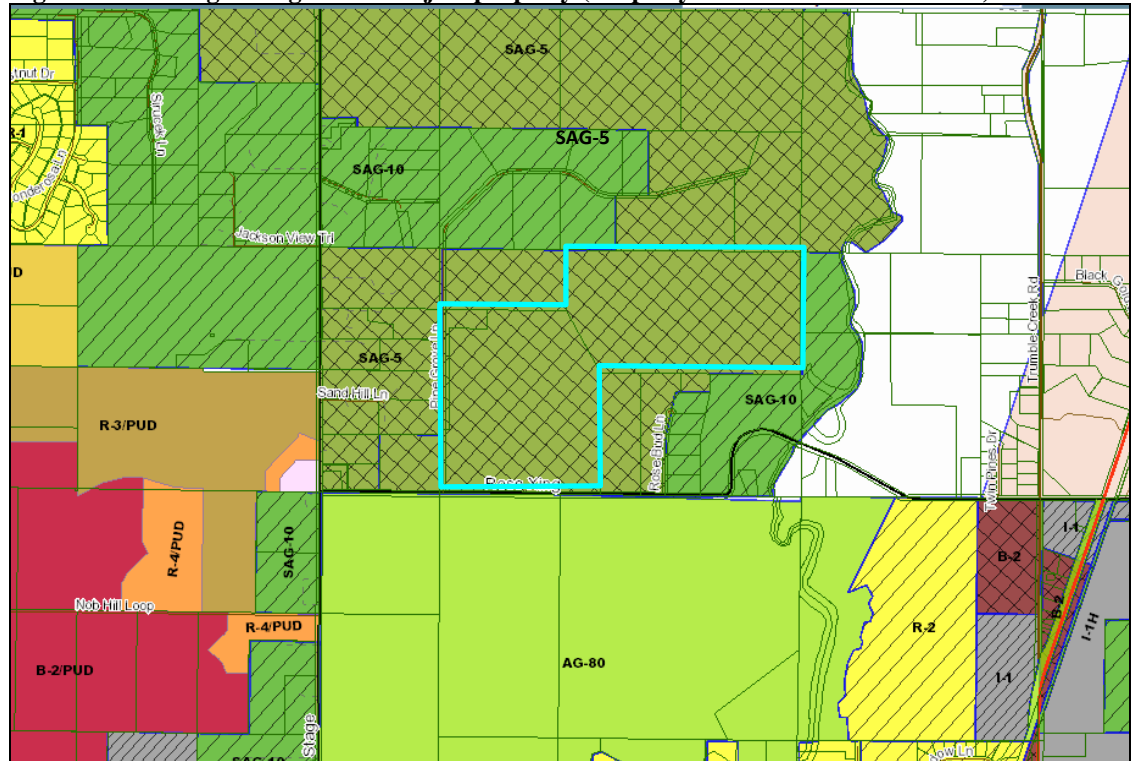
Figure 2 - Current land use and land cover (subject property shown blue)



ii. Current Zoning

Located within the Highway 93 North Zoning District, the subject property is currently zoned 'SAG-5 Suburban Agricultural' (see Figure 3 below). The subject is currently under review for a SAG-5 Residential PUD designation which would provide the basis for the density, permitted uses and bulk and dimensional requirements applicable to the subdivision.

Figure 3 - Existing zoning on the subject property (Property and PUD site shown blue).



iii. **Proposed Land Use**

The proposed subdivision and associated PUD concurrently under review, would create 58 single-family residential lots (46 single-family lots and 12 townhouse lots) on the subject property, with 64 acres set aside as Common Area. The Rosewater PUD and Subdivision has been designed with recreational amenities including a water-ski/paddling lake and a perimeter walking path. The new lots would be situated along the proposed internal subdivision road and around the proposed 27 acre lake, which would be constructed with a specially designed liner and intended to be filled from water drawn from the Whitefish River via an existing irrigation pump-station. All lots would be served by a proposed extension of the Evergreen Water & Sewer District's public water supply system and five proposed onsite multi-user wastewater treatment systems. The subdivision is proposed with a single gated entrance, and the internal loop road would be designed and constructed to meet applicable County road standards. The application includes a phasing plan whereby platting and development of the subdivision would occur in two phases.

G. Area Characteristics

i. **Description of Area Surrounding Proposed Subdivision**

Located 1 mile north of Reserve Drive between US Highway 93 and US Highway 2, the proposal site is situated on an elevated bench west of the Whitefish River. The terrain in this area is generally flat and gently rolling with cleared agricultural land-cover adjacent to the timbered canyon and bottoms of the Whitefish River.

ii. Average Parcel Acreage

Adjacent and area parcels are a combination of subdivision lots and non-subdivision tracts generally ranging from 1.5 to 15 acres in size on the north side of Rose Crossing and 40 to 150 acres in size south of Rose Crossing.

iii. Zoning

As shown in Figure 3 above, the subject property is located within a ‘SAG-5 Suburban Agricultural’ zoning district and surrounded by agricultural and suburban agricultural zoning use designations. The proposed PUD area is bordered to the north, west, and east by areas of ‘SAG-5 Suburban Agricultural’ and ‘SAG-10 Suburban Agricultural’, and to the south by ‘AG-80 Agricultural’ zoning use districts. Beyond the immediate vicinity of the proposal, higher density R-3 PUD, R-4 PUD, and B-2 PUD zoning use districts are established west of Whitefish Stage Road within areas annexed by the City of Kalispell, the nearest point of which occurs 1/4 mile west of the subject property. Not depicted in Figure 3 is an area 1/2 mile south of Rose Crossing and the subject property which was recently amended from AG-80 to ‘I-1 Light Industrial’ zoning use designation.

iv. Land Uses

As shown in Figures 1 and 2 above, the subject property is situated in an area which is prevalently developed with agricultural and relatively low density residential uses. Limited instances of light industrial and commercial uses occur within an approximate one mile radius from the site. The predominant character of the area surrounding the subject property is agricultural and estate-type rural residential, and the subject property and adjacent parcels tend to be open fields and pasture except for the wooded riverine area of the Whitefish River to the east. The mix of agricultural, residential, and light industrial land uses is consistent with the established mixed zoning present in the general area.

v. Previously Considered Subdivisions in Area

Adjacent properties are a combination of tract land created through Certificate of Survey and other exemptions and subdivision review. Previously approved residential subdivisions within 1/2 mile of the subject property and occurring on the bench above the Whitefish river with similar physical and topographic characteristics include Morning View Meadows, a subdivision with five 10-acre lots created in 1979, and Rose Crossing, a subdivision with five 2-acre lots created in 2001. Mission View and Country View Subdivisions located south of Reserve Drive and Ponderosa Subdivision located between Highway 93 and Whitefish Stage Road represent existing subdivisions with similar physical and topographic characteristics and comparable configuration and density to the proposed Rosewater Subdivision located approximately 1 mile from the subject property. Although there is a similarity in lot size and anticipated utility provisions, proposed Rosewater Subdivision differs greatly from these noted subdivisions in that the Rosewater development would contain a substantial open space component and thus have a relatively lower overall density complimentary to the more rural setting and the suburban agricultural and agricultural zoning surrounding the site.

H. Utilities and Services

- i. Water**
Connection to public water system of Evergreen Water and Sewer District
- ii. Wastewater**
Private onsite multi-user sewer systems proposed (5)
- iii. Electricity**
Flathead Electric Cooperative
- iv. Natural Gas**
Northwestern Energy
- v. Solid Waste**
Contract Haul- Evergreen Disposal
- vi. Telephone Service**
Century Tel
- vii. School District(s)**
Kalispell School District 5 (K-12), Flathead High School
- viii. Fire District(s)**
West Valley Fire District, City of Kalispell Fire Department via mutual aid agreement
- ix. Police**
Flathead County Sheriff's Department

III. COMMENTS RECEIVED

A. Agency Comments

The subdivision file contains a copy of the agency referral document sent on April 10, 2012. Agency referrals for comments on the proposed PUD were sent to pertinent agencies on December 17, 2012 and January 3, 2013. As of the date of completion of this staff report, the following comments have been received:

- Jim Chilton, Flathead County Solid Waste
 - The District views no negative impact with solid waste issues at this time.
- Dave Prunty, Public Works/Flathead County Road Department
 - Indicated he has no comments or concerns.
- Wendee Jacobs, Flathead City-County Health Department
 - The proposal appears to meet the minimum standards for water supply (to be provided by Evergreen Water and Sewer District), onsite wastewater treatment, and stormwater drainage. Details of overall suitability regarding sewage treatment, water supply, and stormwater drainage will be reviewed by this office and the Subdivision Section of the Department of Environmental Quality when a complete application is received by this office.
- Steve Robinson, Flathead County Weeds and Parks Department
 - Most of the property is presently under management for weeds, roadsides need to be sprayed until competitive vegetation establishes itself. A 3-year weed management plan must be submitted.
- Nathan Holm, Flathead County GIS Department
 - The proposed road name 'Rosewater Lane' is approved by the Flathead County GIS Department and is reserved for a period of three years.

- James Freyholtz, Montana Department of Transportation
 - Comment acknowledges the submitted Traffic Impact Study indicates no improvements are needed to mitigate traffic impacts to the intersections of Whitefish Stage with Rose Crossing and US Highway 2 with Rose Crossing. He has no comments regarding this proposal.
- Marc Pitman, Montana DNRC
 - Comment encourages the developer to meet with Kalispell DNRC Water Resources Staff asap to discuss required criteria for a Change Authorization to water right 76LI 134528 00 Statement of Claim. The comment includes reference to the proper form needed to apply to change an irrigation right. Although not required, applicants are advised to meet with Department staff prior to preparing and submitting the application in order to save time and expense.
- Mark Deleray and John Vore, Montana FWP
 - Indicated the applicant did a good job addressing water and fishery concerns. Comment indicates the potential for impacts to the steep slopes near the Whitefish River is sufficiently addressed within the Environmental Assessment submitted with the preliminary plat application.
- Peggy Weyant, Bonneville Power Administration
 - Indicated the proposals will not impact any BPA transmission line corridors, and BPA has no objections to the approval of the requests.
- Sean Conrad, City of Kalispell Planning Department
 - The comment recognizes an interest in the development standard of the proposed PUD in regard to future development of the immediate area and future growth of the City of Kalispell. Based upon guidance offered by the City's current growth policy, the Kalispell Transportation Plan, and the County's Two Rivers Neighborhood Plan the comment provides discussion and recommendations regarding 1) Rose Crossing, 2) street intersections on Rose Crossing, 3) perimeter treatment along Rose Crossing, 4) sewage disposal, 5) fire protection, and 6) access to adjacent properties.

Following is a brief summary of the City's stated concerns and recommendations accompanied by staff's perspective on applicability and/or feasibility for requiring the recommendations as conditions of approval.

Rose Crossing - The discussion focuses on the likely future connection of Rose Crossing westward to Highway 93 and the traffic impact that would have on the existing portion of Rose Crossing unless the road is expanded to handle anticipated traffic volumes once it connects Highway 93 and Highway 2. Rose Crossing at the proposal location is within the scope of the current Kalispell Transportation Plan which anticipates the future extension of Rose Crossing westward, and which calls for upgrading the road to an 'urban minor arterial street' with associated specifications at that time. Additionally, the Two Rivers Neighborhood Plan anticipates the need to establish a 120-foot easement for the road to accommodate future traffic demands. In order to serve future traffic needs and meet the City's anticipated specifications the City's recommendations regarding Rose Crossing are to: 1) require dedication of 30 feet of right-of-way

along the project's frontage of Rose Crossing to accommodate future expansion of the road, and 2) all lots within the subdivision waive their right to protest the creation of a special improvement district to upgrade Rose Crossing to an urban minor arterial standard.

- While the City's comment recognizes their current growth policy and Transportation Plan encompass the area of proposal site, the currently effective Flathead County Growth Policy has not adopted the City's current growth policy of the Kalispell Transportation Plan, but has adopted the Kalispell City-County Master Plan Year 2010 which does not encompass the area of proposal site.
- While the Flathead County Growth Policy has not adopted the City's current growth policy, it is noted that the City's current growth policy future land use map plainly states "Future land use designations indicated on this map are only applicable when property is proposed for annexation, and do not have any effect on lands under county jurisdiction with regard to zoning, density, subdivision or other land use divisions." Presently there is no indication the City is actively planning to annex the site of the proposed development.
- As Rose Crossing is a county road situated on a 60-ft easement, it would not be appropriate to require "dedication of 'right-of-way' along the project's frontage of Rose Crossing", but it may be appropriate to require additional easement be reserved along the project's frontage of Rose Crossing if the subdivision review finds it to be warranted based upon applicable regulations and the statutory review criteria.
- Regarding recommendation #2 asking the developer to "waive their right to protest the creation of a special improvement district to upgrade Rose Crossing to an urban minor arterial standard", the County Public Works Director and MDT's Kalispell Area Traffic Engineer have reviewed the proposal and have expressed no concerns. Based on anticipated vehicle trips from the lots in the subdivision, the application materials include a traffic impact study (TIS), and the TIS found no offsite road improvements to be needed as a result of traffic attributable to the proposed development. MCA 76-3-608(7) states "A governing body may not require as a condition of subdivision approval that a property owner waive a right to protest the creation of a special improvement district or a rural improvement district for capital improvement projects that does not identify the specific capital improvements for which protest is being waived." It appears infeasible and inappropriate to require the developer to "waive their right to protest the creation of a special improvement district to upgrade Rose Crossing to an urban minor arterial standard" based solely upon the City's recommendation because there is currently no capital improvement project that identifies any specific capital improvements for which protest would be waived.

Street intersections on Rose Crossing

Considering the City's current growth policy and future land use map indicates a future collector or minor arterial street should be located in the vicinity of the proposed subdivision, and the County's Two Rivers Neighborhood Plan anticipates suburban and urban densities of single family residences north and south of Rose Crossing, the discussion indicates the city's concern that the proposed new road approach onto Rose Crossing "may create potential problems in the future of the functionality of the road currently and in the future". The City's recommendations regarding street intersections on Rose Crossing are to: 1) relocate the main access of the development off of Pine Grove Lane, and 2) the proposed access could be used now as a full movement access, but require that in the future the use of the access be reduced to allow only right-in and right-out traffic circulation.

- The City's recommendations appear to be not based upon impacts directly attributable to the proposed development in consideration of existing road/traffic conditions and area characteristics.
- The proposed location of the new road approach onto Rose Crossing is 660 feet east of Pine Grove Lane and 1730 feet west of Rose Bud Lane, and these road offsets comply with applicable County road standards.
- Appropriateness of the proposed new road and approach and access will be considered in relation to regulations and the statutory review criteria applicable in the subdivision review.

Perimeter treatment along Rose Crossing

The discussion expresses concerns with location and aesthetics of the proposed private storage units which would be situated in the southeast corner of Common Area I. Specifically, the comment complains the proposal "does not provide specifics as to the building height, building design, colors or specific landscaping features along the south and east sides of the mini-storage facility as indicated on the preliminary plat." The City's recommendations are to: 1) move the storage units north outside the view shed of Rose Crossing into Common Area A or H, and 2) Alternatively, if the storage units remain in Common Area I, they should be moved further north, outside of the additional right-of-way dedication for Rose Crossing and screened as follows:

An earth berm a minimum height of half the height of the building constructed along the south and east sides of the mini-storage building for the length of the building. In addition to the earth berm, landscaping in the form of evergreen and deciduous bushes and trees to provide further screening of the mini-storage facility along Rose Crossing and the east side of the mini-storage facility.

- The applicant has addressed sections 3.31.030.5.B and 3.31.030.5.D of the Flathead County Zoning Regulations (FCZR) in that the PUD Plan map and preliminary plat identify locations of proposed residential and non-residential structures and uses and a submitted schematic example of the typical Rosewater Storage Building is an elevation drawing demonstrating the general architectural features of the storage structures and their perimeter landscaping

treatments.

- It is noted the storage facility would be private for use by owners of lots within the development, and as such would constitute an ‘accessory structure’ in regard to applicable zoning regulations. The storage facility would be akin to a private garage and would not be subject to conditional use or performance standards associated with ‘mini-storage’.
- As depicted on the preliminary plat the proposed storage facility is set back 60 feet from the edge of the existing Rose Crossing easement which complies with applicable setback requirements for detached accessory structures pursuant to Section 3.08.040(3)(B&D).

Sewage disposal

The comment indicates the subdivision site lies within the annexation policy boundary for the City of Kalispell and suggests the City might seek to annex the subject property at some point in the future. The discussion expresses concerns with the life-span of the proposed on-site public Level 2 wastewater treatment systems and long-term compatibility of the development’s wastewater treatment with the City’s wastewater infrastructure in the event the site is annexed by the City in the future. Citing Section 4.7.21(e) of the Flathead County Subdivision Regulations (FCSR) which states, “The Commission may require sewer lines to be installed in anticipation of an expansion of a municipal sewer system prior to final plat approval.”, the City’s comment recommends “... the waste water system designs should include the installation of sewer mains allowing for the subdivision’s connection to the Kalispell sewer system or Evergreen sewer system. This would alleviate some of the expense for future residents of the subdivision once the on-site treatment system’s life has run its course.”

- While the nearest area annexed by the City of Kalispell is 1/4 mile westward of the subject property the location is not currently developed with any municipal water or sewer services.
- While certain property 1/2 mile south of the subject property is currently in the process of establishing water service by the Evergreen Water and Sewer District, the nearest areas situated on the higher bench between the Stillwater River and Whitefish River which are currently developed with municipal water or sewer services of the Evergreen Water and Sewer District are located 1 mile from the subject property.
- Appropriateness of the proposed method for wastewater treatment will be considered in relation to regulations and the statutory review criteria applicable in the subdivision review.

Fire protection

The comment acknowledges the proposal site is within 1 mile of the corporate limits of the City of Kalispell, and cites Section 4.7.26 FCSR which indicates:

- a. Subdivisions with a public or community water system that are within the five year service area of a city or within one mile from the corporate limits of a city, if no such service area has been established, shall be designed in

accordance with the adopted standards of that city and the water distribution system shall be designed for fire suppression flow capabilities as required by that city;

Due to the location of the development the comment indicates the Kalispell Fire Chief will also need to provide a review and recommendations on the subdivision in addition to those of the West Valley Fire District.

- An agency referral was sent to Dave Dedman of the Kalispell Fire Department on January 3, 2013 and he responded in writing on January 8, 2013. Consideration of the Chief's comments will be discussed below.

Access to adjacent properties

Citing guidance provided by the Two Rivers Neighborhood Plan, the City's discussion on this matter strongly recommends the requirement of several 60-foot wide access easements to adjoining properties in addition to moving the main entrance to Pine Grove Lane. Concerned with how the proposed development will integrate into the fabric of the city as the city expands in the coming decades, the City's recommendations aim to and create "a better street grid system in an area proposed for increased residential or commercial densities to provide important alternative means into and out of the area."

- While the Two Rivers Neighborhood Plan is a guidance document applicable to the area in which the proposed development is located, it is also recognized that a neighborhood plan is not regulatory.
 - Appropriateness of the proposed access will be considered in relation to regulations and the statutory review criteria applicable in the subdivision review.
- Dave Dedman, Kalispell Fire Department
 - Comment expresses the development should meet all applicable fire specifications of the International Fire Code 2009, and continues with specifications regarding spacing of fire hydrants and fire department access roads including specifications regarding a requirement for a secondary emergency access.
 - A 1/14/13 telephone conversation between Staff and Mr. Dedman clarified the Department's request, specifically regarding capability for entrance through the main entrance gate and a secondary emergency access. Mr. Dedman acknowledged that while a portion of the International Fire Code 2009 addresses residential sprinklers he understands the limitations on sprinkler requirements based on state statute requirements for inspection and maintenance of such systems; indicated a siren-activated gate mechanism is preferred over a password or swipe card-activated mechanism for electric gates; indicated a secondary emergency access is needed and indicated that a secondary access off Pine Grove Lane would be acceptable if it was constructed to accommodate the weight and size of emergency vehicles, and; indicated that a chain gate would be acceptable for an emergency access.
 - Appropriateness of the proposed measures for fire protection and emergency

access will be considered in relation to regulations and the statutory review criteria applicable in the subdivision review.

Pertinent agency considerations will be discussed as applicable in specific sections of the following local government review. Comments received subsequent to the date of this report will be verbally summarized at the public hearing on this proposal.

B. Public Comments

In accordance with Section 4.1.10, adjacent property notification was mailed to neighboring property owners within 150 feet of the proposed subdivision on January 14, 2013 and notice of the proposal and public hearing was physically posted onsite on January 3, 2013.

As of the date of the completion of this staff report, four written public comments have been received regarding the proposal. The issues raised will be further discussed, as applicable, in pertinent sections of the report below.

- Robin Street raises concerns regarding the presence of a perched water table under the site. Street is concerned about potential ‘slumping’ of steep slopes of the Whitefish River drainage which could be aggravated by the effects of the proposed drainfields and particularly in the event the proposed synthetic lake liner leaks or fails into the sandy loam soils of the site which are highly prone to erosion. While Street also asserts that the water-line easement intended to be used to fill the lake does not legally allow non-agricultural use of the water to occur, the language contained in the easement document (see Book 408, Page 5) appears to not limit use of the water to agricultural irrigation.
- Bob Neitzling raises concerns regarding noise impacts and potential impact to groundwater, inquiring about the potential for the development to connect to public sewer services of the Evergreen Water and Sewer District through cooperation with neighboring landowner Thompson Farms LLC.
- Wyatt Olsen raises concerns regarding soil stability in the area, environmental impacts of the proposed sewer systems or a leak in the lake liner on groundwater, maintenance of open spaces, and general concerns regarding the practicality of another subdivision in the area.
- Mark Lister raises concerns regarding impacts to water and soil related to the proposed artificial lake. He specifically commented on the volume of lake water which he estimates to be 43 million gallons and concerns regarding failure of the lake liner system and potential impacts to the environment if failure were to occur. Mr. Lister suggests the County require the developer to post a 50-year performance bond in the amount of ten million dollars prior to development of the lake.
- On January 29, 2013 an additional comment was received by Andy Palchak but the substantial comment was received after the report was written and being peer reviewed, and is therefore not addressed in the report. The comment will be forwarded for consideration by the Planning Board.

- Attempting to address outstanding concerns expressed in submitted public comments, the applicant submitted a written memo regarding potential lake leakage on January 29, 2013 after the report was written and being peer reviewed, and is therefore not addressed in the report. The memo will be forwarded for consideration by the Planning Board.

Any additional written public comment received after January 29, 2013 will be summarized verbally and entered into the public record during the Planning Board hearing on February 13, 2013. Anyone wishing to provide verbal public comment may do so in person at the February 13, 2013 Planning Board hearing.

IV. LOCAL GOVERNMENT REVIEW

A. Review Criteria

Findings in this portion of the report are applicable to the impacts of the proposed subdivision on the review criteria listed. Definitions of primary review criteria can be found in Section VIII of this report and in Chapter 2 of the Flathead County Development Code.

i. Impact on Agriculture

The subject property has historically been used for agriculture, most recently for canola and wheat production. Adjacent neighboring properties to the north and west of the subject property are residentially developed with limited agricultural uses, and adjacent neighboring properties to the south are presently used for relatively large scale agricultural purposes. While the proposal would result in a substantial reduction in agricultural production onsite, it does not appear the proposal would impact the ability of neighboring properties to continue to be used for agriculture. The evaluation of the submitted Preliminary Plat, Environmental Assessment, and supporting documentation included with the application has identified no adverse impacts to onsite or area agriculture which would necessitate special mitigation.

Finding #1

The development's impact on agriculture would be minimal and limited to the subject property because adjacent properties are not dependent upon the subject property for continued agricultural use, agricultural access, or for irrigation water.

ii. Impact on Agricultural Water User Facilities

The subject property is currently developed with irrigation infrastructure including buried waterline, stand pipes, a pivot and wheel lines. The property is not in an irrigation district or party to any irrigation agreements, and serves no irrigation water to adjacent or neighboring properties. The property derives its irrigation water from a pump-house located on adjacent property next to the Whitefish River, and the water is conveyed through a 10-inch waterline situated upon a 10-foot wide irrigation easement applicable to the subject property. While the proposal calls for the removal of most of the existing irrigation infrastructure onsite, portions of the buried 10-inch waterline would be retained and modified for the purpose of filling the proposed 27 acre lake as shown on the preliminary plat.

Comment provided by Marc Pitman of the MT DNRC indicates an irrigation-specific water right (76LI 134528 00) is established in association with the existing pump-house which draws irrigation water from the Whitefish River, and the water right would require change for the different purpose of filling the proposed 27 acre lake. The developer should be required to demonstrate the water right has been amended as appropriate for the intended use of the water to fill the recreational lake.

Finding #2

The developer proposes to use water from the Whitefish River to fill a proposed recreational lake on the subject property via an existing pump and irrigation line which has an associated irrigation water right established. If the developer demonstrates legal use of the river's water through an applicably updated water right there would be no adverse impact to agricultural water user facilities because the subject property is not in an irrigation district and is not party to any irrigation agreements, and use of the pump and waterline for non-agricultural purposes would be legally established.

iii. Impact on Local Services

1. Water and Wastewater

The proposed public water utility infrastructure for the subdivision is depicted on the 'Preliminary Water and Sewer Sheet' submitted with the application. The proposal involves establishing an 8-inch water main in a looped system which would be connected to a 'new' 12-inch waterline to be established within the road and utility easement of Rose Crossing in the future. While the subject property is not currently annexed into the jurisdiction of a public water and sewer district, domestic water supply for the lots within the subdivision is proposed to be provided by the Evergreen Water and Sewer District subsequent to necessary updating and extension of the District's current water services within the 'bench area' followed by future annexation of the subject property into the service area of the District. The submitted application materials include copy of written comment from the Evergreen Water and Sewer District regarding the current proposal, and no adverse impacts to the District or its water services are anticipated or noted although the comment expresses the various steps described above would be necessary before the subdivision could be served by the public water services of the District.

Wastewater generated by the subdivision is proposed to be treated onsite via five onsite Level 2 multi-user wastewater treatment systems which would be situated within Common Areas F, G, H, and I as depicted on the 'Preliminary Water and Sewer Sheet' submitted with the application. The systems would each be designed to treat less than 5,000 gallons per day and each system would be reviewed and permitted by MDEQ as separately permitted multi-user wastewater treatment systems.

Pursuant to MCA 76-3-601, comment was sought from the City of Kalispell because the subdivision is located within one mile from the corporate limits of the city, where the City of Kalispell has annexed area directly west of Whitefish Stage Road. Comment provided by the City of Kalispell has sought to encourage

the development to prepare sewer infrastructure (dry sewer mains) which would enable connection to a public/municipal wastewater treatment system in the future when that type of public/municipal sewer system is established in close proximity to the subdivision. While the intent of the City's recommendation appears well-aimed for quality growth in the long-term, the type of requested infrastructure is likely cost prohibitive for the non-urban density of the proposed subdivision. Further, it appears infeasible to require the applicant to satisfy the City's request for installation of dry sewer mains because conditions necessary for requiring connection to available public services, as outlined in state law (A.R.M. 17.36.328), do not yet exist at the proposal location as the subject property is not presently annexed or specifically planned for annexation by the City of Kalispell, and the property is not located within 500 feet of an existing public sewer system.

Both water and sewer services for the proposed subdivision would be required to be reviewed and approved as applicable by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality.

2. Schools

The proposal is within the boundaries of the Kalispell School District 5 for K-8 students and the Flathead High School District for high school students. Although solicited, the Flathead County Superintendent of Schools has provided no comment. Buses currently provide service to area students, and it is anticipated that additional students may be served without introducing significant impacts to the school district. As it is unclear where the nearest existing school bus stop is located, the developer should be required to comply with reasonable school district requests regarding establishment of a bus stop adjacent to the subdivision along Rose Crossing.

3. Mail Delivery

The application indicates a proposed centralized mailbox facility located near the approach of proposed Rosewater Lane onto Rose Crossing to serve the lots within the subdivision. The proposal for mail delivery appears reasonable and the applicant should be required to provide a letter of approval from the U.S. Postal Service prior to final plat.

4. Recreation

The proposal is located in an area with ample opportunities for a wide range of recreation, and the development's theme is uniquely based upon a waterski recreation theme. As indicated in the application, the proposal is to satisfy subdivision 'parkland' requirements by using Common Area area within the subdivision boundaries which would be owned by Lot owners and managed and maintained by a Home Owners Association under provisions outlined in CC&R's for the subdivision. As shown on the preliminary plat for Rosewater, the proposal includes configuration of nine inter-related open space areas identified as Common Areas A-I totaling 64.24 acres in size and the 27 acre Lake intended for recreational enjoyment of the Lot owners and their guests. The area of proposed Open Space exceeds the 3.10 acres which would be required as parkland pursuant to Section 4.7.24 FCSR. While the preliminary plat indicates a 10-foot wide bike/pedestrian easement situated along the southern subdivision boundary

adjacent to Rose Crossing, the final plat should be required to show the easement to be 15 feet in width pursuant to Section 4.7.19 FCSR because the specific location is identified as a proposed connector trail route in the Flathead County Trails Plan.

5. Roads

As shown on the preliminary plat, primary access for the Lots within the subdivision would be from proposed Rosewater Lane via Rose Crossing, a paved County maintained road. Rosewater Lane would be established as a looped road providing access to all Lots as well as access for users of the lake. The proposed road would be private and gated, and designed and constructed in compliance with currently applicable Flathead County Road and Bridge Department standards for sub-grade structure, width, and paving. The new approach of Rosewater Lane onto Rose Crossing would occur approximately 650-feet from the next closest road intersection at a flat area with good visibility in each direction. The application includes a draft CC&R's which address long-term maintenance of the private road, specifically establishing maintenance as a responsibility of the Rosewater Subdivision Homeowners Association.

With 58 proposed residences, the new subdivision is anticipated to have 580 average daily vehicle trips at full build-out, and therefore the application includes a Traffic Impact Study (TIS) which has evaluated impacts of the anticipated traffic generated by the subdivision on safety and traffic volumes of pertinent roads and intersections in the vicinity of the proposal. The TIS found the impact to area roads attributable to the proposed subdivision does not necessitate any improvements to key area roads and intersections, and indicates good traffic planning has been incorporated into the preliminary plat submittal and recommends the development proceed as shown on the preliminary plat.

Written comments submitted from the Flathead County Road and Bridge Department and the Montana Department of Transportation indicate no concern with the proposal.

6. Fire/Emergency Medical Services

The site is located within the West Valley Fire District and a fire station with Basic Life Support services is located approximately one driving mile north of the subdivision on Whitefish Stage Road. The Kalispell Regional Medical Center is approximately four miles from the proposed subdivision, and the Kalispell Fire Department is available to serve the location through a mutual aid agreement with the West Valley Fire District. The preliminary plat indicates the development design includes 18 typical fire hydrants spaced approximately 400-500 feet apart.

Pursuant to Section 4.7.26 FCSR, written comment was sought from the Kalispell Fire Department because the subdivision is located within one mile from the corporate limits of the city, where the City of Kalispell has annexed area directly west of Whitefish Stage Road. Written comment submitted from the Kalispell Fire Department indicates certain standards which the subdivision is requested to comply with. A subsequent telephone discussion between Staff and Chief Dedman clarified:

- International Fire Code includes standards for residential sprinkling. The limitations of the County requiring residential sprinkling based on appurtenant MCA requirements were discussed, and the Chief is aware the future residences would not have such a requirement placed upon them;
- The Department would find the proposed hydrant spacing acceptable if they were spaced no more than 500 feet apart and no further than 250 feet from a road's edge;
- The proposed electric entrance gate would be acceptable if the gate is equipped for siren 'chirp' activated opening;
- A second emergency access is requested. The Chief would find an emergency access situated between existing Pine Grove Lane and proposed Rosewater Lane acceptable (crossing Common Area 'F'). The emergency access could be gated or chained for emergency use only but it must be constructed to support the weight of emergency vehicles and fire apparatus (75,000 lbs).

Based on Section 4.7.26(b)&(d), the applicant should be required to satisfy reasonable conditions for fire suppression and/or emergency vehicle access as recommended by the Fire Department if required by the Board of County Commissioners.

7. Police Services

The property is located in an unincorporated area of Flathead County and is therefore served by the Flathead County Sheriff. Although solicited, the Sheriff's Department has provided no comment. Given existing staffing levels, the size of the County and the dispersed nature of the population, service to this subdivision is anticipated to be consistent with other unincorporated rural areas of Flathead County and delayed response times may be experienced.

8. Solid Waste Disposal

The applicant is proposing contract haul as a mechanism for solid waste disposal. A letter from the Flathead County Solid Waste District supports the proposed method of waste disposal as the District requests that all new subdivisions in Flathead County use a contract hauler to bring solid waste to the landfill.

9. Other Utilities

Electric, telephone, natural gas and cable/internet utilities which are not already installed will be placed underground within the existing and proposed utility easements to serve the lots within the subdivision. As stated in the application, Flathead Electric will provide electrical power, CenturyTel will provide telephone service, and Northwestern Energy will provide natural gas.

Finding #3

The proposal for domestic water service to the lots within the subdivision is a future connection of all lots to the public water services of the Evergreen Water and Sewer District, and no proposal for the use of well(s) has been made or reviewed. The connection of the proposed subdivision lots to the District's public water services is not currently feasible, and is anticipated to be delayed as the District must complete a variety of system related tasks and neighboring property

must request and be granted annexation into the District before the subject property would be contiguous to the service area of the District and capable of requesting annexation and services from the District.

Finding #4

The proposal for public water services of the Evergreen Water and Sewer District to serve the subdivision is acceptable because the subject property would be annexed into the District and the water system infrastructure would be installed to meet the District requirements to accommodate the number of lots in the proposal. Although connection may be delayed, preliminary plat approval is currently able to be extended for a mutually agreed-upon period of time between the governing body and the subdivider pursuant to MCA 76-3-610.

Finding #5

The proposal to establish five multi-user Level II wastewater treatment systems to serve all lots of the subdivision appears acceptable because submitted application materials and agency comments indicate no environmental constraints to those systems and the systems would be required to be reviewed and approved by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality as applicable prior to their installation and operation.

Finding #6

Requiring the applicant to satisfy the City of Kalispell's request for installation of dry sewer mains for future use appears infeasible because conditions necessary for requiring connection to available public services, as outlined in state law (A.R.M. 17.36.328), do not yet exist at the proposal location as the subject property is not presently annexed or specifically planned for annexation by the City of Kalispell and the property is not located within 500 feet of an existing public sewer system.

Finding #7

The proposed Rosewater Lane with a new approach onto Rose Crossing appears reasonable because the paved internal subdivision road would be designed and constructed to comply with the standards outlined in Section 4.7.16 of the Flathead County Subdivision Regulations and the Flathead County Road and Bridge Department's *Minimum Standards For Design and Construction*.

Finding #8

The anticipated impact of traffic generated by the proposed subdivision on existing area roads and intersections appears minimal and acceptable because the new approach of Rosewater Lane onto Rose Crossing occurs approximately 650-feet from the next closest road intersection at a flat area with good visibility in each direction, and the submitted Traffic Impact Study recommends no improvements to the existing transportation network be required because it identified no adverse impact to existing area roads or intersections attributable to the proposed subdivision.

Finding #9

The proposal to use internal Common Areas managed by a Home Owners Association to satisfy parkland requirements appears acceptable because the recreational Common Areas acreage exceeds the requirement for parkland as outlined in Section 4.7.24 of the Flathead County Subdivision Regulations (FCSR) and the Flathead County Parks and Recreation Department has not indicated concern with the proposal.

Finding #10

The proposed bike/pedestrian easement is not compliant with Section 4.7.19 FCSR in terms of width because it is situated adjacent to Rose Crossing which is a proposed connector trail route as shown on the Flathead County Trails Plan, requiring an easement at least 15 feet in width.

Finding #11

Pursuant to Section 4.7.26 FCSR, the proposal site is subject to adopted standards of the Kalispell Fire Department pertaining to fire protection because the subdivision is located within one mile from the corporate limits of the City of Kalispell, where the City has annexed area on the west side of Whitefish Stage Road.

Finding #12

The proposal would not adversely impact services of the West Valley Fire District or the Kalispell Fire Department because the location is in close proximity to fire stations, the site would be developed with fire hydrants to aid in fire suppression, and adequate access may be provided for emergency vehicles via the entrance gate and a secondary emergency access located off adjacent Pine Grove Lane.

Finding #13

Effects of the proposed subdivision on local services would be minimal with imposed conditions because necessary utilities are currently available to the property within access and utility easements, emergency service providers would have adequate access to the subdivision, the area is close to schools which have adequate capacity to accommodate additional students from the subdivision, a compliant mechanism for road maintenance exists, and the proposal would not adversely impact existing public water/wastewater services.

Finding #14

Impact to the other criteria discussed relative to ‘impact on local services’ would be minimal and acceptable with the imposition of conditions because the subject property and the primary accesses have no apparent physical constraints which cannot be adequately addressed through conditions of approval.

iv. Impact on the Natural Environment

1. Water Quality

There are no naturally occurring surface waters or wetlands onsite and the subdivision is situated near the Whitefish River. According to the submitted Environmental Assessment, the site is underlain by topsoil, silt and sand, and silty clay. Substantial groundwater monitoring has been performed and documentation of the results has been submitted for review. Groundwater monitoring results

indicate no shallow groundwater within 8-feet of the surface has been observed and groundwater has been encountered between 16 and 34 feet below the ground surface, consistent with references to a perched aquifer which apparently underlies the site.

The subdivision is proposed to be served by a future extension of the public water system operated by the Evergreen Water and Sewer District, and five separate multi-user Level II wastewater treatment systems to be established within various Common Areas onsite would manage residential wastewater. Potential impacts to water quality would most likely result from improper future operation of the wastewater treatment facilities or stormwater runoff which could hypothetically affect water quality of groundwater and/or the Whitefish River. Submitted comments have raised concerns about the potential impacts to the perched aquifer from the proposed drainfields, and the comments suggest if the aquifer were to be contaminated it could impact water quality of the Whitefish River and its surrounding environs as several documented springs apparently emerge above the river where the toe of the aquifer's confining clay layer surfaces along the steep canyon slopes.

The submitted Environmental Assessment indicates the proposed wastewater treatment systems have been selected for use specifically due to their efficiency at reducing nitrates, total suspended solids (TSS) levels and Biochemical oxygen demand (BOD) levels in the resultant effluent. The submitted Preliminary Drainage and Erosion Control Plan indicates all surface drainage would be managed onsite through retention and absorption in the identified drainage swales and shallow retention sites, and no stormwater drainage would enter the Whitefish River as a result of runoff from the subdivision.

The developer intends to request annexation into the service area of the Evergreen Water and Sewer District, and all Lots would be served water by the District. The proposed connections to public water services, the onsite wastewater treatment systems, and the stormwater management plan for the proposed subdivision would be required to be reviewed and approved, as applicable, by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality.

Proposed Lake

As indicated on the preliminary plat and preliminary grading plan, the proposed 27 acre lake would be contained onsite, and is designed with no outlet. Submitted comments have raised concerns regarding the potential impact to water quality in the event the lake's liner system fails, and the concerns regard impacts to groundwater and the Whitefish River. In the event the liner fails it seems plausible the lake's water may sink below the lake where it would mix with groundwater of the perched aquifer potentially contaminating groundwater which is the source of drinking water accessed by area wells. Additional concern is the potential impact to the Whitefish River which would result from a large-scale failure of the lake resulting in mass wasting of the slopes and banks of the Whitefish River. Submitted comment suggests the mechanism for such a failure is evident in natural 'slumping' of the steep unstable slopes of the Whitefish River drainage

which has historically occurred in proximity to the proposal site, presumably due to saturation of the highly erodible silty sands which become saturated naturally due to the movement of groundwater across the confining clay layer of the perched aquifer. Based on comment from neighboring landowners, four large-scale slump occurrences have been documented and there are numerous springs which emerge below the canyon rim east of the subject property.

In order for the proposed lake to not impact groundwater, it appears imperative that the liner system function as designed and not fail. The submitted geotechnical report recommends installation of monitoring wells at locations along the perimeter of the lake to identify changes in groundwater levels and soil saturation in proximity to monitor and validate that the liner is either functioning properly or is leaking. Several questions remain unanswered pertaining to monitoring and response in the event of a detrimental leak:

- Who would monitor the monitoring wells and what mechanism would ensure monitoring occurs into the future?
- If substantial leaking is identified, what is the plan for repair?
- Would repair necessitate emptying of the lake?
- If repair necessitated emptying of the lake, is that feasible, and if so, how would that occur without impacting the slopes and water quality of the Whitefish River?

The submitted application materials do not address these important questions. Therefore, the developer should be required to establish a comprehensive contingency plan to address monitoring of the lake and response in the event of a failure of the lake's liner system, and the plan should be reviewed and approved by pertinent public agencies including the Montana Department of Natural Resources and Conservation, Montana Fish, Wildlife, and Parks, and the U.S. Army Corps of Engineers prior to final plat approval of Phase 1.

2. Air Quality

As the subdivision is accessed by a paved county road and the internal subdivision road is proposed to be paved, lasting impacts to air quality are not anticipated as a result of the subdivision. The applicant has submitted a draft Dust Abatement Plan compliant with Section 4.7.14 FCSR. A note should be required to be placed on the face of the final plat that requires the owners of all lots abide by the guidelines set forth in the plan during and after site construction and development activities.

3. Impact of Noise

While noise typically associated with new subdivisions is generally limited to subdivision development, use of the proposed water-ski lake which would be the centerpiece of Rosewater Subdivision would create noise generated by motorized watercraft. It is anticipated that road construction, utility installation, and the development of residences would generate only limited noise impacts during construction which would be temporary, and it is unlikely full build-out of residences and subdivision improvements (with associated noise) would occur all at once as it is more logical to assume residential construction would be gradual

as individual lots are sold and developed. Although the intensity of future boating noise is unknown, submitted public comment has indicated concern with noise anticipated to occur due to boating activities. Flathead County has no noise ordinance which would establish acceptable base-levels for different types of noise, and the Flathead County Zoning Regulations provide little guidance regarding noise impacts. The developer has designed the subdivision with wide open space buffers on the perimeters to minimize potential noise impacts to neighboring residents, and soils excavated for the lake will be used to elevate building pads intended to provide additional barrier to prevent boat-related sound from propagating outward unchecked from its source. While the residential use of the proposed Lots is not anticipated to generate permanent continuous impacting noise to area residents or wildlife, it is anticipated the waterskiing activities will generate some regularly occurring noise which is not currently present at the location.

4. Impact to Flora

Containing no wetland or riparian areas, the subject property is generally open grassy land which has been farmed in the past. Weeds may propagate on disturbed areas if not managed appropriately. Pursuant to Section 4.7.25 FCSR the applicant would be required to develop and implement a weed management plan specific to be approved by the Flathead County Weed Board prior to final plat approval.

5. Impact to Floodplain

According to FIRM Panel 1420G, the subject property is not located in a special flood hazard area and is outside of the 0.2% annual chance flood area. In the event the proposed lake were to fail and cause an unplanned drainage into the Whitefish River it is presumed there would be unmitigated impacts to the floodplain of the river.

6. Impact to Riparian/Wetland Areas

No riparian or wetland areas occur on the subject property and the subdivision is not anticipated to impact riparian or wetland areas located within the Whitefish river drainage to the east of the subject property because Common Area 'H' would provide a buffer of approximately 700 feet between the steep slopes of the river drainage and residential Lots.

7. Impact to Historical Features

The Environmental Assessment indicates there are no known historic, archeological, or cultural sites on the subject property. Submitted comment from Montana Historical Society indicates no record of historical structures located on the subject property.

Finding #15

The proposed subdivision site is believed to be underlain by a perched aquifer based upon submitted mapping, groundwater monitoring results, and public testimony from long-term farmers and residents of the area. The presence of the perched aquifer is of particular interest because it is relatively shallow and covered by silty/sandy soils, and the proposal would establish five multi-user Level II wastewater treatment systems and a 27 acre lake above it.

Finding #16

Impacts to water quality as a result of the proposed residential elements of the subdivision are anticipated to be minimal because there are no surface waters on the site, the site is not subject to shallow groundwater within 8-feet of the ground surface, all lots would be served by a public water system and Level II wastewater treatment systems, the stormwater drainage plan would effectively manage stormwater runoff onsite, and the proposed water, wastewater, and drainage systems will be required to undergo review and receive approval from the Montana Department of Environmental Quality.

Finding #17

Dependable installation and long-term scientific monitoring of the proposed 27 acre lake and its liner system is essential in order to not impact water quality because in the event the lake's liner system fails the leaking water could sink below the lake and contaminate groundwater of the perched aquifer, and in a worst-case scenario lead to significant unmitigated impact to the Whitefish River resulting from large-scale erosion or mass wasting 'slumping' of the steep slopes and banks of the river drainage.

Finding #18

Because a failure of the proposed artificial lake's liner system could impact water quality, adverse effects of the proposed lake on the natural environment would be acceptable only with the imposition of a condition requiring the developer to establish a comprehensive emergency contingency plan to address monitoring of the lake and response in the event of a failure of the lake's liner system.

Finding #19

While the residential use of the proposed Lots is not anticipated to generate permanent continuous impacting noise to area residents or wildlife, waterskiing activities occurring on the proposed lake may generate regularly occurring impacting noise which is not currently present at the location but which may be minimized through proposed design measures but cannot be fully mitigated.

Finding #20

Minimal impacts to flora are anticipated because the site is predominately grass covered and sparsely vegetated with trees. No plant species of concern have been identified as being present on the subject property, completion and adherence to a weed control plan will be a condition of preliminary plat approval, and the proposed Common Areas would serve to preserve perimeter areas in their present vegetated state and buffer subdivision improvements from the steeper forested but erosion prone slopes of the Whitefish River drainage.

Finding #21

No impacts to floodplain, wetland or riparian areas, or historical structures are anticipated as a direct result of the proposed subdivision because none of these features exist on the subject property.

Finding #22

Adverse effects of the proposed Lots and subdivision improvements on the natural environment would be minimal and acceptable with the imposition of conditions requiring the developer to mitigate dust and to take necessary steps to manage noxious weeds on site.

v. Impact on Wildlife

The subject property is located in a sparsely populated suburban agricultural area with open fields abutting the forested canyon area of the Whitefish River. Submitted data from the Montana Natural Heritage Program indicates three ‘species of concern’ occur within the vicinity of the proposed subdivision- the Great Blue Heron, The Westslope Cutthroat Trout, and the Bull Trout. The heron is a migratory bird which uses riparian forest as its general habitat and the trout occupy the river which is located approximately 500 feet from the subdivision and 1000 feet from the nearest lots. Proposed Common Areas would maintain the open field habitat of approximately 67 acres and Common Area ‘H’ which is situated on the eastern portion of the subdivision adjacent to the Whitefish River contains 25 acres which would be available for use by wildlife travelling between the river bottom and the pastured fields above. Comment from Montana Fish Wildlife and Parks personnel indicates the applicant has addressed water and fishery concerns appropriately.

Finding #23

Adverse impacts of the proposed subdivision on wildlife are not anticipated because substantial acreage and large buffers would mitigate negative impacts to the Whitefish River Fishery, and areas proposed for development on the property are not specifically used as general habitat by ‘species of concern’ which have been identified as being present at certain locations in the vicinity of the subdivision.

vi. Impact on Wildlife Habitat

The subject property has a relatively flat open and grassy character which provides only limited habitat for wildlife. According to submitted data from the Montana Natural Heritage Program, only one ‘species of concern’ inhabiting certain areas in the vicinity of the subdivision, the Great Blue Heron, uses the specific type of habitat present on the subject property as the property, and its use of upland grassy areas seems likely minimal. Site development would be focused on the central areas of the subdivision leaving perimeter areas relatively unaffected in terms of impact to habitat.

Finding #24

The proposed subdivision is not anticipated to introduce adverse impacts to wildlife habitat because the site contains only minimal general habitat for ‘species of concern’ which have been identified in the vicinity of the subdivision according to submitted data from the Montana Natural Heritage Program.

vii. Impact on Public Health and Safety

1. Flood Risk

The subject property has no streams, wetlands or lakes, and according to FEMA FIRM Panel 1420G, the subdivision is located in an area designated as Zone X - outside of the 0.2% annual chance floodplain. Therefore the proposal would not introduce adverse impacts to public health and safety in regard to flooding.

2. Water and Wastewater Treatment

All lots are proposed to be served by a future connection to the public water services of the Evergreen Water and Sewer District, and five separate multi-user Level II wastewater treatment systems to be established within various Common Areas onsite would manage residential wastewater. The proposed systems for water and sewer are subject to high levels of monitoring which ensure safety for users. All extensions and connections to the water and wastewater systems would be required to be reviewed and approved by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality, as applicable.

3. Stormwater

The submitted Preliminary Drainage and Erosion Control Plan establishes the conceptual plan for stormwater management and indicates no stormwater drainage would enter the Whitefish River as a result of runoff from the subdivision. The plan appears to adequately manage stormwater on site through directing stormwater to the identified drainage swales and shallow retention sites where it may be absorbed within soil. As there would be more than one acre of ground disturbed through the installation of subdivision improvements it is anticipated the developer will be required to obtain a General Permit for Stormwater Discharges Associated with Construction Activity issued by the MDEQ.

4. Road Network

Legal and physical access will be provided to each lot from proposed Rosewater Lane, a looped internal subdivision road which would approach onto Rose Crossing as shown on the preliminary plat. The new road and its approach are proposed to be designed, built and paved to current applicable county standards. The submitted TIS indicates the traffic anticipated to be generated from the subdivision is not of a substantial volume to trigger offsite improvements to area roads or intersections in consideration of the condition of those road network features and the volume of traffic they currently accommodate at various peak hours. Copies of the Preliminary Plat, Environmental Assessment, and TIS were provided to Dave Prunty of the Flathead County Road and Bridge Department and James Freyholtz of Montana Department of Transportation, and comment from each indicates no concerns which suggests the proposal is acceptable in regard to the capability of the road network to safely accommodate the new traffic of the proposed subdivision in addition to traffic already using the area roads.

5. High Voltage Electric Lines/High Pressure Gas Lines

There are no exposed high voltage electric lines or high pressure gas lines on the subject property.

6. Fire and Emergency Services

The property is not mapped as being within the Wildland Urban Interface, and the subdivision's land-cover is comprised mainly of cultivated fields with few trees. The site is located within the West Valley Fire District and is also subject to compliance with fire protection standards of the Kalispell Fire Department Pursuant to Section 4.7.26 FCSR. A fire station with Basic Life Support services is located approximately one driving mile north of the subdivision on Whitefish Stage Road and the Kalispell Regional Medical Center is approximately four miles from the proposed subdivision. The preliminary plat indicates the development design includes fire hydrants which appear to meet the requests of the Kalispell Fire Department. A letter of comment from the Kalispell Fire Department Chief indicates the Department supports approval the preliminary plat if a secondary emergency access is provided and emergency access through the automated front gate is provided for.

7. Geologic Hazards

As shown on the preliminary plat, the subject property is generally flat with some gently rolling terrain with the exception of the eastern boundary which has steep slopes above the Whitefish River. The subdivision is designed such that most subdivision improvements would be confined to the flatter areas centrally located on the property and each lot possesses buildable areas that comply with the Flathead County Subdivision Regulations in regard to slope and driveway access.

The proposed subdivision presents minimal or no geologic hazards in regard to impacts from residential lots and road and utility improvements. Submitted public comments claim the proposed 27 acre lake presents a potential hazard related to geology in the event of a substantial leak which in a worst-case scenario could aggravate geologic 'slumping' of the steep slopes of the Whitefish River drainage due to highly erodible nature of the soils on the site and compounded by presence of the perched aquifer. The concept of this risk has been noted in received public comment and staff has discussed the concept with the project engineers from CMG Engineering and Carver Engineering who have indicated their opinions that such a failure has a low probability. Considering the submitted geotechnical report recommends monitoring for leaking, and four instances of historic large scale 'slumps' are documented as having occurred in proximity to the subject property it appears there is a potential geological hazard which could arise from a detrimental leak causing extreme saturation of soils around the lake.

In the event such a lake failure were to occur, an ad-hoc response such as impromptu emptying of the lake via pumping to the river could in itself cause slope damage and impacts to the water quality and floodplain of the river due to the erodible nature of the soils compromising the slopes. Therefore it appears reasonable that an emergency contingency plan should be required of the developer prior to final plat approval. The plan should address long-term monitoring of the lake and emergency response in the event of a failure of the lake's liner system, including:

- minimum qualifications of contracted person or firm to perform monitoring;
- method(s) of lake liner repair;
- method of emptying the lake, which will not result in degradation of soils, impact to area roads or adjacent properties, or pollution of the Whitefish River, and;
- responsibility for cost of long-term monitoring and necessary response/repair of lake liner to prevent adverse impacts to the natural environment and public health and safety.

Prior to final plat approval of Phase 1, the developer should be required to identify the contracted assignment of the qualified person or firm to perform long-term lake monitoring and the approved and the emergency contingency plan be reviewed and approved by pertinent public agencies including the Montana Department of Natural Resources and Conservation, Montana Fish, Wildlife, and Parks, and the U.S. Army Corps of Engineers.

8. Avalanche Hazards

The subdivision is not located in an area of the County considered to be prone to avalanche hazards.

9. Airport Influence Areas

Located approximately 2.5 miles southwest of Glacier International Airport, the proposal site occurs within an area described as a 'Runway Approach Zone' within the southern end of the 'Airport Influence Area' of Glacier Park International Airport as indicated on the land use plan for the airport. The proximity of the subdivision to the 'Airport Influence Area' was realized during the preparation of the report after agency referrals were solicited, and therefore no comment from the Glacier International Airport has been obtained at the date this report has been prepared. Staff will attempt to contact the airport for comment prior to the February 13, 2013 public hearing.

10. Soils

As indicated in submitted application materials, soils on the subject property are generally comprised of a variety of silty and sandy soils which generally are described as having low shrink-swell potential. It is anticipated soils on site would not pose a risk for health and safety for typical residential uses and road development, as other area properties and roads similarly situated appear to be developed with stability.

Finding #25

Impacts of the proposed subdivision on the area road network appear to be acceptable because the submitted Traffic Impact Study indicates no offsite improvements to area roads or intersections are called for and comments from the Flathead County Road and Bridge Department and the Montana Department of Transportation indicate proposal is acceptable in regard to the capability of the road network to safely accommodate the new traffic of the proposed subdivision in addition to traffic already using the area roads.

Finding #26

The subject property is located in the West Valley Fire District and is also subject to reasonable compliance with fire protection standards of the Kalispell Fire Department because the proposal site is within one mile from the municipal boundary of the City of Kalispell. The Kalispell Fire Department has requested a siren activated opening mechanism be installed on the automated subdivision entrance gate and a secondary emergency ingress/egress be situated across Common Area 'F' from Pine Grove Lane.

Finding #27

Considering the submitted geotechnical report recommends monitoring for leaking, and four instances of historic large scale 'slumps' are documented as having occurred in proximity to the subject property it appears there is a potential geological hazard which could arise from a detrimental leak of the proposed lake's liner system causing extreme saturation of soils around the lake. This potential impact can be mitigated with the imposition of conditions related to long-term monitoring and establishment of an emergency contingency plan.

Finding #28

Minimal risks to public health and safety are anticipated with the imposition of conditions because the site is not located in a special flood hazard area; the proposal for water, sanitation, and stormwater will be required to be reviewed and approved prior to installation of the proposed new facilities; each lot has adequate legal and physical access; there are no high voltage electric or high pressure gas lines on or around the subject property, and; there are no identified apparent hazards associated with avalanche, or airport influence areas.

B. Compliance with Survey Requirements of 76-3-401 through 76-3-406 M.C.A.**Finding #29**

The preliminary plat would conform to all provisions of the Montana Subdivision and Platting Act if it contains all elements required to meet state survey requirements, which would be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval.

C. Compliance with the Flathead County Subdivision Regulations**Finding #30**

No variances are requested or required. A two-phase phasing plan has been proposed. The proposed subdivision is in general compliance with the Flathead County Subdivision Regulations, effective June 1, 2012 as compliant legal and physical access would be provided and potential impacts to the primary review criteria appear able to be adequately addressed by conditions.

D. Compliance with the Flathead County Subdivision Review Procedure**i. Pre-application Conference Date**

July 30, 2012

ii. Application Deadline Date

January 30, 2013 (application submitted October 31, 2012)

iii. Completeness Date

- November 8, 2012
- iv. Sufficiency Date**
December 18, 2012
- v. Agency Referral Requests Mailing Date**
December 17, 2012
- vi. Adjacent Property Notification Mailing Date**
January 14, 2013
- vii. Legal Notice Publication Date**
January 27, 2013
- viii. On-site Posting of Public Hearing Date**
January 3, 2013

Finding #31

The proposal has been reviewed as a major subdivision in accordance with statutory criteria and standards outlined in Section 4.4 of the Flathead County Subdivision Regulations effective June 1, 2012.

E. Provision of Easements for the Location and Installation of Planned Utilities

Finding #32

The preliminary plat identifies adequate easements for utilities to serve the subdivision. All other easements associated with this subdivision and the subdivided property shall be clearly located on the Final Plat to satisfy applicable requirements of the Montana Subdivision and Platting Act and the Flathead County Subdivision Regulations.

F. Provision of Legal and Physical Access to Each Parcel

Finding #33

Rose Crossing provides legal and physical access to the subdivision, and the proposed Rosewater Lane would provide legal and physical access to the individual Lots. Rosewater Lane would be privately maintained, occurring within a 60 foot wide private road and utility easement, and would be constructed and paved in compliance with applicable Flathead County standards.

G. Review of Applicable Plans

76-1-605(2)(b) M.C.A. states that “A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy adopted pursuant to this chapter.” Furthermore, 76-3-608(3) M.C.A. does not contain compliance with the growth policy as a primary criteria by which an individual subdivision proposal must undergo local government review or on which findings of fact are to be based. Review of general conformance with applicable plans is provided as an acknowledgement and consideration of the guidance offered by the information contained in the document(s).

i. Neighborhood Plan

The proposed subdivision is located within an area of the County guided by the ‘Two Rivers Plan’. The plan was adopted on June 28, 2005 by Resolution #1822, to adopt general land use designations to allow for residential, commercial, and industrial development on properties within the plan area. The Land Use Map adopted as Exhibit A of Resolution #1822 designates appropriate land use on the subject

property as a combination of 'Urban 2-8', 'Suburban 2', and 'Rural 1'. In addition, Exhibit B of Resolution #1822 includes policy statements and guidelines for new development in the area:

- Policies/guidelines #1-3 suggest new developments should provide urban services and utilities, describe 'residential' areas as being developed with up to 4 dwelling units per acre, and specify that "no urban services will be required for rural area designations". As the proposal is for a residential subdivision with a density of 1 dwelling per 2.46 acres the proposal does not meet the density characterization of an 'urban' or 'residential' development, and appears to meet the density characterization of a 'rural' area.
- Policies/guideline #8 suggests developments should include upgrading of the area road network to ensure a future grid street system can be established with major roads, including Rose Crossing, eventually having a 120-foot easement. Rose Crossing is presently developed within a 60-foot easement where it abuts the proposed subdivision, consistent with other typical County collector roads. While the Two Rivers Plan suggests all roads in the area should occur within extra wide easements, the Plan does not explain the reasoning for such a guideline. The widest easement applicable in the current *Flathead County Minimum Standards for Design and Construction* manual is 100-feet for a major arterial road, and there is currently no specifically identified capital works project or RSID established which would provide the rationale for requiring additional easement from the developer of the current proposal. If developed as proposed, the Rosewater Subdivision is not anticipated to prevent potential future expansion of Rose Crossing as the preliminary plat indicates the subdivision improvements, including the mini-storage facility in Common Area 'I', are proposed in locations which comply with currently applicable setbacks and would not present physical obstacles in the event the County seeks to expand Rose Crossing in the future.
- The Two Rivers Plan generally supports the proposed subdivision as the proposal is of a relatively low density in comparison with projections contained in the plan and, the proposal aims to provide adequate access to emergency service providers, and the proposed wastewater treatment systems are intended to perform with minimal impacts to groundwater.

ii. Flathead County Growth Policy

In addition to the Two River Plan, the subject property is also under the jurisdiction of the Flathead County Growth Policy. The Growth Policy, adopted on October 12, 2012, is a general policy document meeting the requirements of 76-1-601 M.C.A. Regulations adopted by Flathead County used in the review of subdivisions are an implementation of the goals and policies established in the Growth Policy, and the proposal is made in compliance with related provisions of a SAG-5 Residential PUD designation as outlined in the Flathead County Zoning Regulations which are an implementation of the goals and policies of the Growth Policy. This proposal conforms to the regulations used in the review of subdivision in Flathead County and is therefore in general compliance with the Flathead County Growth Policy.

H. Compliance with Local Zoning

Located within the Highway 93 North Zoning District, the subject property is currently zoned 'SAG-5 Suburban Agricultural'. The subject is currently under review for a SAG-5 Residential PUD designation (see file FPPUD-12-03) which would provide the basis for the density, permitted uses and bulk and dimensional requirements applicable to the subdivision. In terms of density, anticipated use, and applicable bulk and dimensional requirements, the proposed subdivision and its lots would comply with the SAG-5 Residential PUD. In the event the PUD is not approved, the proposed subdivision would not comply with the applicable local zoning.

Finding #34

The preliminary plat is under review concurrently with a proposal to establish a SAG-5 Residential PUD which would overlay the underlying SAG-5 zoning of the subject property. If the Preliminary PUD is approved, the preliminary plat would comply with the applicable zoning because the subdivision and its lots would meet the density, use, and applicable bulk and dimensional requirements of the Rosewater SAG-5 PUD. The preliminary plat would not comply with local zoning if the PUD is not approved because the proposed subdivision density and lot sizes depend upon the permissible density allowances offered by the SAG-5 Residential PUD standards as outlined in Section 3.31.030(4)(A) of the Flathead County Zoning Regulations.

V. SUMMARY OF FINDINGS

1. The development's impact on agriculture would be minimal and limited to the subject property because adjacent properties are not dependent upon the subject property for continued agricultural use, agricultural access, or for irrigation water.
2. The developer proposes to use water from the Whitefish River to fill a proposed recreational lake on the subject property via an existing pump and irrigation line which has an associated irrigation water right established. If the developer demonstrates legal use of the river's water through an applicably updated water right there would be no adverse impact to agricultural water user facilities because the subject property is not in an irrigation district and is not party to any irrigation agreements, and use of the pump and waterline for non-agricultural purposes would be legally established.
3. The proposal for domestic water service to the lots within the subdivision is a future connection of all lots to the public water services of the Evergreen Water and Sewer District, and no proposal for the use of well(s) has been made or reviewed. The connection of the proposed subdivision lots to the District's public water services is not currently feasible, and is anticipated to be delayed as the District must complete a variety of system related tasks and neighboring property must request and be granted annexation into the District before the subject property would be contiguous to the service area of the District and capable of requesting annexation and services from the District.
4. The proposal for public water services of the Evergreen Water and Sewer District to serve the subdivision is acceptable because the subject property would be annexed into the District and the water system infrastructure would be installed to meet the District requirements to accommodate the number of lots in the proposal. Although connection

may be delayed, preliminary plat approval is currently able to be extended for a mutually agreed-upon period of time between the governing body and the subdivider pursuant to MCA 76-3-610.

5. The proposal to establish five multi-user Level II wastewater treatment systems to serve all lots of the subdivision appears acceptable because submitted application materials and agency comments indicate no environmental constraints to those systems and the systems would be required to be reviewed and approved by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality as applicable prior to their installation and operation.
6. Requiring the applicant to satisfy the City of Kalispell's request for installation of dry sewer mains for future use appears infeasible because conditions necessary for requiring connection to available public services, as outlined in state law (A.R.M. 17.36.328), do not yet exist at the proposal location as the subject property is not presently annexed or specifically planned for annexation by the City of Kalispell and the property is not located within 500 feet of an existing public sewer system.
7. The proposed Rosewater Lane with a new approach onto Rose Crossing appears reasonable because the paved internal subdivision road would be designed and constructed to comply with the standards outlined in Section 4.7.16 of the Flathead County Subdivision Regulations and the Flathead County Road and Bridge Department's *Minimum Standards For Design and Construction*.
8. The anticipated impact of traffic generated by the proposed subdivision on existing area roads and intersections appears minimal and acceptable because the new approach of Rosewater Lane onto Rose Crossing occurs approximately 650-feet from the next closest road intersection at a flat area with good visibility in each direction, and the submitted Traffic Impact Study recommends no improvements to the existing transportation network be required because it identified no adverse impact to existing area roads or intersections attributable to the proposed subdivision.
9. The proposal to use internal Common Areas managed by a Home Owners Association to satisfy parkland requirements appears acceptable because the recreational Common Areas acreage exceeds the requirement for parkland as outlined in Section 4.7.24 of the Flathead County Subdivision Regulations (FCSR) and the Flathead County Parks and Recreation Department has not indicated concern with the proposal.
10. The proposed bike/pedestrian easement is not compliant with Section 4.7.19 FCSR in terms of width because it is situated adjacent to Rose Crossing which is a proposed connector trail route as shown on the Flathead County Trails Plan, requiring an easement at least 15 feet in width.
11. Pursuant to Section 4.7.26 FCSR, the proposal site is subject to adopted standards of the Kalispell Fire Department pertaining to fire protection because the subdivision is located within one mile from the corporate limits of the City of Kalispell, where the City has annexed area on the west side of Whitefish Stage Road.
12. The proposal would not adversely impact services of the West Valley Fire District or the Kalispell Fire Department because the location is in close proximity to fire stations, the site would be developed with fire hydrants to aid in fire suppression, and adequate

access may be provided for emergency vehicles via the entrance gate and a secondary emergency access located off adjacent Pine Grove Lane.

13. Effects of the proposed subdivision on local services would be minimal with imposed conditions because necessary utilities are currently available to the property within access and utility easements, emergency service providers would have adequate access to the subdivision, the area is close to schools which have adequate capacity to accommodate additional students from the subdivision, a compliant mechanism for road maintenance exists, and the proposal would not adversely impact existing public water/wastewater services.
14. Impact to the other criteria discussed relative to 'impact on local services' would be minimal and acceptable with the imposition of conditions because the subject property and the primary accesses have no apparent physical constraints which cannot be adequately addressed through conditions of approval.
15. The proposed subdivision site is believed to be underlain by a perched aquifer based upon submitted mapping, groundwater monitoring results, and public testimony from long-term farmers and residents of the area. The presence of the perched aquifer is of particular interest because it is relatively shallow and covered by silty/sandy soils, and the proposal would establish five multi-user Level II wastewater treatment systems and a 27 acre lake above it.
16. Impacts to water quality as a result of the proposed residential elements of the subdivision are anticipated to be minimal because there are no surface waters on the site, the site is not subject to shallow groundwater within 8-feet of the ground surface, all lots would be served by a public water system and Level II wastewater treatment systems, the stormwater drainage plan would effectively manage stormwater runoff onsite, and the proposed water, wastewater, and drainage systems will be required to undergo review and receive approval from the Montana Department of Environmental Quality.
17. Dependable installation and long-term scientific monitoring of the proposed 27 acre lake and its liner system is essential in order to not impact water quality because in the event the lake's liner system fails the leaking water could sink below the lake and contaminate groundwater of the perched aquifer, and in a worst-case scenario lead to significant unmitigated impact to the Whitefish River resulting from large-scale erosion or mass wasting 'slumping' of the steep slopes and banks of the river drainage.
18. Because a failure of the proposed artificial lake's liner system could impact water quality, adverse effects of the proposed lake on the natural environment would be acceptable only with the imposition of a condition requiring the developer to establish a comprehensive emergency contingency plan to address monitoring of the lake and response in the event of a failure of the lake's liner system.
19. While the residential use of the proposed Lots is not anticipated to generate permanent continuous impacting noise to area residents or wildlife, waterskiing activities occurring on the proposed lake may generate regularly occurring impacting noise which is not currently present at the location but which may be minimized through proposed design measures but cannot be fully mitigated.

20. Minimal impacts to flora are anticipated because the site is predominately grass covered and sparsely vegetated with trees. No plant species of concern have been identified as being present on the subject property, completion and adherence to a weed control plan will be a condition of preliminary plat approval, and the proposed Common Areas would serve to preserve perimeter areas in their present vegetated state and buffer subdivision improvements from the steeper forested but erosion prone slopes of the Whitefish River drainage.
21. No impacts to floodplain, wetland or riparian areas, or historical structures are anticipated as a direct result of the proposed subdivision because none of these features exist on the subject property.
22. Adverse effects of the proposed Lots and subdivision improvements on the natural environment would be minimal and acceptable with the imposition of conditions requiring the developer to mitigate dust and to take necessary steps to manage noxious weeds on site.
23. Adverse impacts of the proposed subdivision on wildlife are not anticipated because substantial acreage and large buffers would mitigate negative impacts to the Whitefish River Fishery, and areas proposed for development on the property are not specifically used as general habitat by 'species of concern' which have been identified as being present at certain locations in the vicinity of the subdivision.
24. The proposed subdivision is not anticipated to introduce adverse impacts to wildlife habitat because the site contains only minimal general habitat for 'species of concern' which have been identified in the vicinity of the subdivision according to submitted data from the Montana Natural Heritage Program.
25. Impacts of the proposed subdivision on the area road network appear to be acceptable because the submitted Traffic Impact Study indicates no offsite improvements to area roads or intersections are called for and comments from the Flathead County Road and Bridge Department and the Montana Department of Transportation indicate proposal is acceptable in regard to the capability of the road network to safely accommodate the new traffic of the proposed subdivision in addition to traffic already using the area roads.
26. The subject property is located in the West Valley Fire District and is also subject to reasonable compliance with fire protection standards of the Kalispell Fire Department because the proposal site is within one mile from the municipal boundary of the City of Kalispell. The Kalispell Fire Department has requested a siren activated opening mechanism be installed on the automated subdivision entrance gate and a secondary emergency ingress/egress be situated across Common Area 'F' from Pine Grove Lane.
27. Considering the submitted geotechnical report recommends monitoring for leaking, and four instances of historic large scale 'slumps' are documented as having occurred in proximity to the subject property it appears there is a potential geological hazard which could arise from a detrimental leak of the proposed lake's liner system causing extreme saturation of soils around the lake. This potential impact can be mitigated with the imposition of conditions related to long-term monitoring and establishment of an emergency contingency plan.

28. Minimal risks to public health and safety are anticipated with the imposition of conditions because the site is not located in a special flood hazard area; the proposal for water, sanitation, and stormwater will be required to be reviewed and approved prior to installation of the proposed new facilities; each lot has adequate legal and physical access; there are no high voltage electric or high pressure gas lines on or around the subject property, and; there are no identified apparent hazards associated with avalanche, or airport influence areas.
29. The preliminary plat would conform to all provisions of the Montana Subdivision and Platting Act if it contains all elements required to meet state survey requirements, which would be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval.
30. No variances are requested or required. A two-phase phasing plan has been proposed. The proposed subdivision is in general compliance with the Flathead County Subdivision Regulations, effective June 1, 2012 as compliant legal and physical access would be provided and potential impacts to the primary review criteria appear able to be adequately addressed by conditions.
31. The proposal has been reviewed as a major subdivision in accordance with statutory criteria and standards outlined in Section 4.4 of the Flathead County Subdivision Regulations effective June 1, 2012.
32. The preliminary plat identifies adequate easements for utilities to serve the subdivision. All other easements associated with this subdivision and the subdivided property shall be clearly located on the Final Plat to satisfy applicable requirements of the Montana Subdivision and Platting Act and the Flathead County Subdivision Regulations.
33. Rose Crossing provides legal and physical access to the subdivision, and the proposed Rosewater Lane would provide legal and physical access to the individual Lots. Rosewater Lane would be privately maintained, occurring within a 60 foot wide private road and utility easement, and would be constructed and paved in compliance with applicable Flathead County standards.
34. The preliminary plat is under review concurrently with a proposal to establish a SAG-5 Residential PUD which would overlay the underlying SAG-5 zoning of the subject property. If the Preliminary PUD is approved, the preliminary plat would comply with the applicable zoning because the subdivision and its lots would meet the density, use, and applicable bulk and dimensional requirements of the Rosewater SAG-5 PUD. The preliminary plat would not comply with local zoning if the PUD is not approved because the proposed subdivision density and lot sizes depend upon the permissible density allowances offered by the SAG-5 Residential PUD standards as outlined in Section 3.31.030(4)(A) of the Flathead County Zoning Regulations.

VI. CONCLUSION

In accordance with the provisions of Section 4.4 of the Flathead County Subdivision Regulations, a review and evaluation of the major subdivision application has been completed by the staff of the Planning Board. The proposed subdivision appears to generally comply with the applicable design standards and subdivision review criteria found in Section 4.7 FCSR, pursuant to Findings of Fact stated above, or can be mitigated with

conditions of approval. Should the Planning Board forward a recommendation of approval of this subdivision to the Flathead County Commissioners, the following conditions should be considered to supplement that recommendation.

VII. CONDITIONS

A. Standard Conditions

1. The applicant shall receive physical addresses in accordance with Flathead County Resolution #1626B. All road names shall appear on the final plat. Street addressing shall be assigned by Flathead County. [Section 4.7.16(g)(iv), 4.7.26(c) Flathead County Subdivision Regulations (FCSR)]
2. The applicant shall show proof of a completed approach permit from the Flathead County Road and Bridge Department for the approach of Rosewater Lane onto Rose Crossing indicating the approach has been built and received final inspection and final approval. [Section 4.7.16, FCSR]
3. The applicant shall comply with reasonable fire suppression and access requirements of the West Valley Fire District and the Kalispell Fire Department. A letter from each fire chief stating that the plat meets the requirements of the fire District (or Department) shall be submitted with the application for Final Plat. [Section 4.7.26(b), FCSR]
4. All areas disturbed during development of the subdivision shall be re-vegetated in accordance with an approved Weed Control Plan and a letter from the County Weed Supervisor stating that the Weed Control Plan has been approved shall be submitted with the final plat. [Section 4.7.25, FCSR]
5. All internal subdivision roads (Rosewater Lane) shall be certified by a licensed engineer and constructed and paved at least 22-feet wide in accordance with the *Flathead County Minimum Standards for Design and Construction*, as applicable. [Sections 4.7.16, 4.7.17 FCSR]
6. With the application for final plat, the applicant shall provide a compliant Road Users' Agreement which requires each property owner to bear his or her pro-rata share for maintenance of the roads within the subdivision and for any integral access roads lying outside the subdivision. [Section 4.7.15(e), FCSR]
7. All utilities shall be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Section 4.7.23, FCSR]
8. The proposed water, wastewater treatment, and stormwater drainage systems for the subdivision shall be reviewed, as applicable, by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality. [Section 4.7.12, 4.7.20, 4.7.21 FCSR]
9. The mail delivery site shall be provided with the design and location approved by the local postmaster of USPS. A letter from the postmaster stating that the applicant has met their requirements shall be included with the application for final plat. [Section 4.7.28, FCSR]

10. In order to assure the provisions for collection and disposal of solid waste, the developer shall submit a letter from the applicable solid waste contract hauler stating that the hauler is able to provide service to the proposed subdivision. [Section 4.7.22, FCSR]
11. The following statements shall be placed on the face of the final plat applicable to all lots:
 - a. All road names shall be assigned by the Flathead County Address Coordinator and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number. [Section 4.7.26(c), FCSR]
 - b. All utilities shall be placed underground. [Section 4.7.23, FCSR]
 - c. The owners shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities. [Section 4.7.14, FCSR]
 - d. Solid Waste removal for all lots shall be provided by a contracted solid waste hauler. [Section 4.7.22, FCSR]
 - e. Lot owners are bound by the Weed Control Plan to which the developer and the Flathead County Weed Department agreed. [4.7.25, FCSR]
12. The final plat shall comply with state surveying requirements. [Section 76-3-608(b)(i), M.C.A.]
13. The owners shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities. [Section 4.7.14, FCSR]
14. All road names shall be approved by Flathead County and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number. [Section 4.7.26(c), FCSR]
15. Where the aggregate total disturbed area of any infrastructure construction in the proposed subdivision as defined in A.R.M. 17.30.1102(28) is equal to, or greater than one acre; or where when combined with subsequent construction of structures such disturbed area will be equal to, or greater than one acre, a Montana State Department of Environmental Quality General Permit for Stormwater Discharges Associated with Construction Activity (General Permit) shall be obtained prior to any site disturbance or construction. [17.30.1115 Administrative Rules of Montana (A.R.M.)]
16. All required improvements shall be completed in place or a Subdivision Improvement Agreement shall be provided by the subdivider prior to final approval by the County Commissioners. [Section 4.0.16, FCSR]
17. The final plat shall be in substantial compliance with the plat and plans submitted for preliminary plat review, except as modified by these conditions. [Section 4.1.13, FCSR]
18. Preliminary plat approval is valid for three years. The final plat shall be filed prior to the expiration of the three years. Extension requests to the preliminary plat approval

shall be made in accordance with the applicable regulations and following associated timeline(s). [Section 4.1.11 FCSR]

B. Project-Specific Conditions

19. The proposed phasing plan shall be implemented in accordance with the requirements of Section 4.4.2 of the Flathead County Subdivision Regulations; each development phase submitted for final plat review and approval shall be required to meet all conditions of approval established or identify where certain conditions have been previously met or are not applicable to the particular phase.
20. The proposed extensions and connections of the public water system shall comply with the standards and requirements of the Evergreen Water and Sewer District. A letter from the district stating that the water improvements meet the district requirements shall be submitted with the application for Final Plat. [Sections 4.7.20, 4.7.21 FCSR]
21. Prior to final plat approval of Phase 1, the applicant shall provide evidence that all applicable water right requirements of the Department of Natural Resources Water Resources Division pertaining to the use of Whitefish River water for filling of the proposed lake have been met.
22. A total of 64.249 acres (minimum) of land shall be dedicated as open space and maintained by the Homeowner's Association in accordance with the provisions of Section 4.7.24(d)(i) and (ii) FCSR, and shall be designated on the face of the final plat. The dedication of open space may be made over the course of two phases of development, in accordance with the proposed phasing plan submitted with the application materials.
23. The proposed water supply for fire suppression and hydrants onsite shall meet all applicable requirements set forth in Section 4.7.26(a) of the Flathead County Subdivision Regulations.
24. Stop signs shall be installed at the intersection of Rosewater Lane and Rose Crossing, and at the intersection of the un-named storage/maintenance access road and Rosewater Lane to ensure safe and efficient traffic flow to, from and within the proposed subdivision.
25. An automated gate installed at the main subdivision entrance off of Rose Crossing shall be equipped with a siren activated opening mechanism meeting the specifications of the West Valley Fire District and the Kalispell Fire Department.
26. A secondary emergency access providing ingress/egress and meeting the applicable requirements for the size and weight of emergency vehicles and apparatus shall be established at a suitable location across Common Area 'F' between Pine Grove Lane and Rosewater Lane. If the access is chained or gated, developer shall provide an access key to the fire district for use in the case of emergency.
27. A bike/pedestrian path easement of compliant width (15-feet) shall be shown on the face of the final plat. [Sections 4.7.19 FCSR]

28. The design and construction of the lake shall include installation of monitoring wells as recommended in the geotechnical report submitted and reviewed with the preliminary plat.
29. Prior to final plat approval of Phase 1, the applicant shall provide an emergency contingency plan for the proposed artificial lake which has been reviewed and approved in writing by the Montana Department of Natural Resources and Conservation, Montana Department of Fish, Wildlife and Parks, and the U.S. Army Corps of Engineers. The plan shall address long-term monitoring of the lake's liner system and emergency response in the event of a failure of the lake's liner system. At a minimum, the plan should include minimum qualifications of a person or firm contracted to perform the monitoring; method(s) of lake liner repair for various forms of potential damage; method of emptying the lake which will not degrade area soils, impact area roads or adjacent properties, or cause pollution of the Whitefish River, and; establish a mechanism for financial responsibility regarding the cost of long-term monitoring and necessary response/repair of the lake liner.
30. Prior to final plat approval of Phase 1, the applicant shall provide evidence that a qualified person or firm has been contracted to perform long-term lake monitoring.
31. The final PUD Plan of Rosewater SAG-5 PUD shall be approved by Resolution of the Flathead County Board of Commissioners in order that the proposed subdivision is compliant with applicable local zoning prior to final plat approval.